

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

BRODERICK WARFIELD,

No. 2:25-cv-00557-TLN-SCR

Plaintiff,

v.

SOLANO COUNTY SUPERIOR COURT,
et al.,

ORDER AND FINDINGS AND
RECOMMENDATION

Defendants.

Plaintiff is proceeding pro se in this action, which is accordingly referred to the undersigned pursuant to Local Rule 302(c)(21). Plaintiff has filed a request for leave to proceed in forma pauperis (“IFP”) and has submitted the affidavit required by that statute. *See* 28 U.S.C. § 1915(a)(1). The motion to proceed IFP (ECF No. 2) will therefore be granted.

In the less than three months this action has been pending, Plaintiff has also filed a first amended complaint (FAC) (ECF No. 13) and thirteen other motions, many of them duplicative. For the reasons provided below, the Court finds Plaintiff’s FAC is legally deficient and recommends that it be dismissed without leave to amend. The Court also denies the thirteen pending motions.

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I. SCREENING

A. Legal Standard

The federal IFP statute requires federal courts to dismiss a case if the action is legally “frivolous or malicious,” fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). In reviewing the complaint, the Court is guided by the requirements of the Federal Rules of Civil Procedure.

Under the Federal Rules of Civil Procedure, the complaint must contain (1) a “short and plain statement” of the basis for federal jurisdiction (that is, the reason the case is filed in this court, rather than in a state court), (2) a short and plain statement showing that plaintiff is entitled to relief (that is, who harmed the plaintiff, and in what way), and (3) a demand for the relief sought. Fed. R. Civ. P. 8(a). Plaintiff’s claims must be set forth simply, concisely and directly. Fed. R. Civ. P. 8(d)(1).

A claim is legally frivolous when it lacks an arguable basis either in law or in fact. *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). In reviewing a complaint under this standard, the court will (1) accept as true all of the factual allegations contained in the complaint, unless they are clearly baseless or fanciful, (2) construe those allegations in the light most favorable to the plaintiff, and (3) resolve all doubts in the plaintiff's favor. *See Neitzke*, 490 U.S. at 327; *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010), cert. denied, 564 U.S. 1037 (2011).

The court applies the same rules of construction in determining whether the complaint states a claim on which relief can be granted. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (court must accept the allegations as true); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974) (court must construe the complaint in the light most favorable to the plaintiff). Pro se pleadings are held to a less stringent standard than those drafted by lawyers. *Erickson*, 551 U.S. at 94. However, the court need not accept as true legal conclusions, even if cast as factual allegations. *See Moss v. U.S. Secret Service*, 572 F.3d 962, 969 (9th Cir. 2009). A formulaic recitation of the elements of a cause of action does not suffice to state a claim. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544,

1 555-57 (2007); *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

2 To state a claim on which relief may be granted, the plaintiff must allege enough facts “to
3 state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has
4 facial plausibility when the plaintiff pleads factual content that allows the court to draw the
5 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at
6 678. A pro se litigant is entitled to notice of the deficiencies in the complaint and an opportunity
7 to amend, unless the complaint’s deficiencies could not be cured by amendment. *See Akhtar v.*
8 *Mesa*, 698 F.3d 1202, 1213 (9th Cir. 2012).

9 B. The Complaint and First Amended Complaint

10 Plaintiff’s original complaint was thirteen pages long, and attached over 100 pages of
11 heavily redacted exhibits. ECF No. 1. Plaintiff named approximately fifteen defendants,
12 including law enforcement divisions, several state court judges, county prosecutors, and public
13 defenders. *Id.* at 8. The factual background consisted of only three sentences, wherein Plaintiff
14 discussed making two calls to 911 in November 2011. *Id.* at 9.

15 On April 10, 2025, Plaintiff filed a FAC. The FAC is fifteen pages and does not include
16 exhibits. It appears to name the same fifteen defendants, and two additional defendants. ECF
17 No. 13 at 1. The action purports to be brought under the False Claims Act. *Id.* at 9. The factual
18 background portion of the FAC is again just three sentences, and again concerns the making of
19 two 911 phone calls in November 2011. *Id.* at 11. Plaintiff alleges that Defendants violated the
20 Health Insurance Portability and Accountability Act (“HIPAA”). *Id.* at 12. Plaintiff makes the
21 further conclusory allegation that Defendants violated the Espionage Act by disclosing classified
22 national defense information. *Id.* at 13. Plaintiff seeks monetary and injunctive relief.

23 C. Plaintiff’s Prior Actions

24 Plaintiff has filed at least three prior actions in this Court about the same subject matter.
25 The Court will briefly discuss them in chronological order:

26 1. *Warfield v. Solano County Public Defenders*, et al., 2:22-cv-00782-TLN-JDP (the “2022
27 action”): In this case, Plaintiff sued eight defendants including attorneys, judges, and a hospital.
28 Plaintiff filed twenty-one different complaints (See ECF No. 35, Twentieth Amended Complaint).

1 Magistrate Judge Peterson recommended the action be dismissed. ECF No. 31. In summarizing
2 the factual allegations, Judge Peterson recounts that Plaintiff brought a RICO claim concerning a
3 phone call to 911 in 2011. *Id.* at 3. Judge Peterson recommended dismissal for failure to state a
4 claim, and Judge Nunley dismissed the action. ECF No. 37. Plaintiff appealed, and on May 22,
5 2023, the Ninth Circuit dismissed the appeal as frivolous. ECF No. 44.

6 2. *Warfield v. Solano County Sheriffs, et al.*, 2:24-cv-02886-DJC-CSK (the “2024
7 action”): Plaintiff named sixteen defendants, including many law enforcement officers and
8 attorneys. Plaintiff alleges that defendants “mishandled credible threat 911 calls” in November
9 2011. ECF No. 1 at 6. Plaintiff filed numerous motions in the action, including several motions
10 to seal. Plaintiff filed a first amended complaint where again the factual background portion
11 discussed 911 calls in November 2011. ECF No. 32 at 9. Magistrate Judge Kim recently
12 recommended that the action be dismissed on the basis of res judicata as precluded by the 2022
13 action. ECF No. 49. The recommendation further stated that it appeared from the face of the first
14 amended complaint that the action was frivolous. *Id.* at 2.

15 3. *Warfield v. California Highway Patrol, et al.*, 2:25-cv-00489-DAD-AC (the “2025
16 action”): Plaintiff named five defendants, including law enforcement and the district attorney.
17 ECF No. 1. The factual background of the complaint was the same as herein, three sentences
18 describing two calls to 911 in November 2011. *Id.* at 9. The complaint also made references to
19 HIPAA and the Espionage Act. *Id.* at 11. Magistrate Judge Claire recommended that the action
20 be dismissed as duplicative of the 2024 case. Judge Claire described the action as raising
21 “violations of the False Claims Act and HIPAA regarding systemic failures in emergency
22 protocols in Solano County.” ECF No. 4 at 2. The order further stated: “Plaintiff’s claims arise
23 out of two 911 calls he made on November 5, 2011.” *Id.* at 2-3. After the F&R was issued,
24 Plaintiff chose to voluntarily dismiss the action. ECF No. 5.

25 D. Analysis

26 Plaintiff has now filed at least four federal lawsuits concerning calls made to 911 in
27 November 2011. The Court recommends this action be dismissed for several reasons. First, this
28 action appears duplicative of the 2024 action. *Adams v. California Dep’t of Health Servs.*, 487

1 F.3d 684, 688-89 (9th Cir. 2007) (overruled on other grounds *Taylor v. Sturgell*, 553 U.S. 880
2 (2008)). The Ninth Circuit clarified in *Adams* that “in assessing whether the second action is
3 duplicative of the first, we examine whether the causes of action and relief sought, as well as the
4 parties or privies to the action, are the same.” 487 F.3d at 688. “A suit is deemed duplicative if
5 the claims, parties and available relief do not vary significantly between the two actions.”
6 *Shappell v. Sun Life Assur. Co.*, No. 2:10-CV-03020-MCE, 2011 WL 2070405, at *2 (E.D. Cal.
7 May 23, 2011).

8 Second, it appears from the face of the FAC that Plaintiff fails to state a claim because his
9 claims are time-barred. Plaintiff complains of events that occurred in 2011, more than 13 years
10 prior to the filing of this action. Although the FAC is in some respects difficult to discern, it is
11 captioned as a “complaint for violations of the False Claims Act” and Counts 1 and 2 are
12 violation of the False Claims Act. ECF No. 13 at 1 & 12. The generally applicable statute of
13 limitations for claims under the False Claims Act is six years. *See Graham County Soil & Water*
14 *v. U.S. ex rel Wilson*, 545 U.S. 409, 415 (2005) (“Under § 3731(b)(1), ‘a civil action under
15 section 3730 may not be brought ...more than 6 years after the date on which the violation of
16 section 3729 is committed.’”). Plaintiff alleges violation of Section 3729. ECF No. 13 at 12.
17 Therefore, it appears the six-year period of limitations expired in 2017. Even if Plaintiff could
18 allege some mechanism for tolling, it would be barred by the the-year statute of repose. *See*
19 *United States v. Scan Health Plan*, 2017 WL 4564722, *8 (C.D. Cal. Oct. 5, 2017) (describing 31
20 U.S.C. § 3731(b)(2) as a “statute of response” under which in no event may a claim be brought
21 more than ten years after the date the violation is committed).

22 Third, the allegations are conclusory and the FAC fails to comply with Rule 8 and fails to
23 state a claim under Rule 12(b)(6). “[U]nder either the false certification theory or promissory
24 fraud theory, the essential elements of False Claims Act liability remain the same: (1) a false
25 statement or fraudulent course of conduct, (2) made with scienter, (3) that was material, causing
26 (4) the government to pay out money or forfeit moneys due.” *U.S. ex rel. Hendow v. Univ. of*
27 *Phoenix*, 461 F.3d 1166, 1174 (9th Cir. 2006). Claims under the False Claims Act must be pled
28 with particularity. *See Cafasso v. General Dynamics C4 Systems*, 637 F.3d 1047, 1055 (9th Cir.

1 2011) (“we hold that claims of fraud or mistake—including FCA claims—must, in addition to
2 pleading with particularity, also plead plausible allegations.”). To the extent Plaintiff’s claim is
3 based on some alleged breach of HIPAA, the statute provides no private right of action. *See*
4 *Webb v. Smart Document Solutions*, 499 F.3d 1078, 1081 (9th Cir. 2007) (“HIPAA itself provides
5 no private right of action.”).

6 Plaintiff’s allegations are conclusory. He alleges that “Defendants knowingly made false
7 claims regarding their compliance with Breach notification Rule and federal emergency
8 management standards outlined in frameworks such as the National Response Framework.” ECF
9 No. 13 at 9. Plaintiff alleges “Defendants disregarded Relator’s help and warnings and failed to
10 act on critical information concerning public safety threats.” *Id.* at 11. Some of Plaintiff’s
11 assertions are entirely conclusory, such as: “Defendants knowingly presented, caused to be
12 presented, false claims to the government regarding their compliance with federal emergency
13 management standards.” *Id.* at 12. Plaintiff makes all of his allegations collectively against
14 “Defendants” and does not specify the alleged actions of any Defendant. This is especially
15 problematic when there are more than fifteen Defendants and they have quite varied roles--
16 including a dentist, the department of corrections, police departments, judges, and “Mr. Hale, aka
17 Mr. Hell.” ECF No. 13 at 1.

18 Fourth, to the extent the action arises from the same common nucleus of operative fact as
19 the 2022 action, and involves the same claims and parties, those claims are barred by res judicata.
20 The doctrine of res judicata provides that a final judgment on the merits bars further claims by parties
21 or their privies based on the same cause of action. *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg'l
22 Plan. Agency*, 322 F.3d 1064, 1077 (9th Cir. 2003). The doctrine of res judicata, also known as claim
23 preclusion, is applicable when there is (1) an identity of claims; (2) a final judgment on the merits;
24 and (3) identity or privity between parties. *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708,
25 713 (9th Cir. 2001). When the doctrine applies, it “‘bar(s) all grounds for recovery which could have
26 been asserted, whether they were or not in a prior suit between the same parties ...’” *Costantini v.
27 Trans World Airlines*, 681 F.2d 1199, 1201 (9th Cir. 1982) (*quoting Ross v. IBEW*, 634 F.2d 453, 457
28 (9th Cir. 1980)). In addressing whether res judicata applies, the court evaluates whether the claims

1 asserted “arise out of the same transactional nucleus of facts” as the prior action. *See id.* at 1202
2 (quoting *Harris v. Jacobs*, 621 F.2d 341, 343 (9th Cir. 1980)). A court may sua sponte dismiss an
3 action based on the doctrine of res judicata, even though the doctrine is normally raised as an
4 affirmative defense. *Arizona v. California*, 530 U.S. 392, 412 (2000)

5 The in forma pauperis statute, 28 U.S.C. § 1915(e) provides that this Court “shall dismiss
6 the case at any time” if it determines that the action is “frivolous or malicious” or fails to state a
7 claim on which relief may be granted. As discussed above, Plaintiff brought similar claims in
8 2022, the action was dismissed, and the Ninth Circuit dismissed the appeal as frivolous. The
9 Court concludes the instant action similarly appears frivolous, in that it “lacks an arguable basis
10 either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). The Court additionally
11 concludes that the FAC fails to state a claim for the reasons outlined above.

12 The Court has considered whether Plaintiff should be allowed leave to amend. Plaintiff
13 is proceeding pro se and a pro se litigant should be given leave to amend unless it is absolutely
14 clear that the deficiencies cannot be cured by amendment. *Akhtar v. Mesa*, 698 F.3d 1202, 1212
15 (9th Cir. 2012). The Court concludes that leave to amend would be futile. Plaintiff has brought
16 four actions arising from the same factual background, and in one of those actions filed 20
17 complaints. Any further leave to amend would be futile. Futility of amendment is a sufficient
18 ground to deny leave to amend. *See Lockheed Martin Corp. v. Network Solutions, Inc.*, 194 F.3d
19 980, 986 (9th Cir. 1999) (“Where the legal basis for a cause of action is tenuous, futility supports
20 the refusal to grant leave to amend.”).

21 E. Plaintiff’s Pending Motions

22 Plaintiff has filed twelve motions to seal (ECF Nos. 3, 5-12, 14, 16-17). These motions
23 are duplicative and unnecessary. It appears most of the items Plaintiff seeks to seal were filed as
24 attachments to the original complaint in heavily redacted format. Plaintiff has filed motions to
25 seal in his other actions. Judge Claire disposed of the motion by stating: “Considering the court’s
26 recommendation that this case be dismissed as duplicative of an already existing, unsealed case,
27 the court concludes that there is no good cause to seal this case.” (ECF No. 4 in Case # 25-cv-
28 00489-DAD-AC). Judge Peterson and Judge Kim also denied motions to seal in the above

1 referenced actions. The Court will deny all twelve of Plaintiff's motions to seal.

2 Plaintiff also filed a motion for extension of time (ECF No. 15). The motion seeks an
3 additional 14-days to obtain and submit vital records/statistics and to file them under seal. The
4 motion is unnecessary, and there is no deadline that needs extending. The motion is denied.

5 **II. CONCLUSION**

6 Accordingly, **IT IS HEREBY ORDERED** that:

- 7 1. Plaintiff's request to proceed in forma pauperis (ECF No. 2) is GRANTED;
8 2. Plaintiff's twelve motions to seal (ECF Nos. 3, 5, 6, 7, 8, 9, 10, 11, 12, 14, 16, 17) are
9 DENIED; and
10 3. Plaintiff's motion for extension of time (ECF No. 15) is DENIED.

11 **IT IS FURTHER RECOMMENDED** that:

- 12 1. Plaintiff's action be dismissed without leave to amend; and
13 2. The Clerk be directed to enter judgment and close this file.

14 These findings and recommendations will be submitted to the United States District Judge
15 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen days**
16 after being served with these findings and recommendations, either party may file written
17 objections with the court. The document should be captioned "Objections to Magistrate Judge's
18 Findings and Recommendations." The parties are advised that failure to file objections within the
19 specified time may result in waiver of the right to appeal the district court's order. *Martinez v.*
20 *Ylst*, 951 F.2d 1153 (9th Cir. 1991).

21 DATED: May 2, 2025



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23 SEAN C. RIORDAN
24 UNITED STATES MAGISTRATE JUDGE
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